

MICHIGAN SUPREME COURT



Office of Public Information

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CONFIDENTIALITY OF SUPREME COURT DELIBERATIONS TO BE DISCUSSED AT JAN. 17 PUBLIC HEARING; ASBESTOS ANTI-BUNDLING RULE AND JURY PROPOSALS ALSO ON AGENDA

LANSING, MI, January 12, 2007 – Whether internal Michigan Supreme Court case discussions are confidential – and whether a Justice who discloses those discussions should be sanctioned – are among the issues the Court will consider at a January 17 public hearing in Lansing.

On December 6, 2006, the Court adopted Administrative Order (AO) 2006-8 and gave it immediate effect. The order states, “All correspondence, memoranda and discussions regarding cases or controversies are confidential. This obligation to honor confidentiality does not expire when a case is decided. The only exception to this obligation is that a Justice may disclose any unethical, improper or criminal conduct to the JTC or proper authority.” The order and related materials may be viewed at

<http://www.courts.michigan.gov/supremecourt/Resources/Administrative/index.htm#administrative>.

Also on the agenda are proposed changes to rules affecting juries (**ADM 2005-19**). Potential changes include allowing the jury to request a view of a crime scene or other “material event” in a case. Other proposals concern jurors taking notes, asking questions of witnesses, and having “case notebooks” that include exhibits, jury instructions and other documents. Opening and closing statements by parties, final jury instructions, and the materials jurors may take into final deliberations are also covered, in addition to other matters.

The hearing will start at 9:30 a.m. in the Supreme Court courtroom on the 6th floor of the Michigan Hall of Justice; the hearing will adjourn no later than 11:30 a.m. The Court regularly holds hearings as part of its public comment process for proposed court rules and other administrative matters, and invites members of the public to share their views on agenda items. Anyone wishing to speak at the hearing should contact the Clerk of the Court at P.O. Box 30052, Lansing, Michigan 48909 or by e-mail at MSC_clerk@courts.mi.gov, no later than Tuesday, January 16, and should reference the ADM file number for the items on which they wish to address the Court. Speakers will have three minutes each to present their views; Supreme Court Justices may ask questions of the speakers.

Also under consideration is a prohibition on “bundling” asbestos injury cases for settlement or trial (**ADM 2003-47**). On August 9, 2006, following a public hearing, the Court adopted the order, adding that “It is the opinion of the Court that each case should be decided on its own merits, and not in conjunction with other cases.” The Court will hear comments on whether to retain that rule.

Another proposed rule (**ADM 2005-41**) would govern access to records that the State Bar of Michigan maintains for some of its internal programs, including an ethics hotline and a program for lawyers and judges with substance abuse problems. Under Proposed Rule 19, such records could be disclosed if ordered by a court or under a subpoena. The rule would also permit the State Bar to provide records to a governmental agency that is investigating an unauthorized practice of law complaint or a claim on the bar's Client Protection Fund, which reimburses clients for money misappropriated by their attorneys.

Also on the agenda are proposed rules that would:

- Allow two-way interactive video technology to be used in some family and probate court hearings (**ADM 2002-09**).
- Eliminate the Judicial Tenure Commission's ability to dismiss an ethics complaint against a judge with a private letter or censure. An alternate amendment would allow a judge to ask the Michigan Supreme Court to review an admonishment from the Tenure Commission (**ADM 2003-21**).
- Establish special pleading requirements in cases that claim violations of the Headlee Amendment (**2003-59**).
- Retain amendments to a rule that governs trial courts' reports to the State Court Administrative Office (SCAO) about timely dispositions in criminal cases (**ADM 2004-42**).
- Clarify that certified electronic operators do not have the authority to prepare transcripts of court proceedings. These amendments would also require that recording systems used by court reporters and recorders must meet SCAO standards (**2004-48**).
- Retain a court rule amendment that requires the Michigan Court of Appeals to give priority to election case appeals (**ADM 2005-17**).
- Allow courts to enter pleas for juveniles who violate the Motor Vehicle Code. The proposed rules would also require courts to report those cases to the Secretary of State (**ADM 2005-42**).
- Help ensure that criminal defendants in district court are aware of their right to counsel (**ADM 2006-05**).
- Require that foster parents, preadoptive parents, and relative caregivers are notified of court hearings in child protective cases (**ADM 2006-26**).
- Make agents of the Judicial Tenure Commission immune from civil lawsuits against them for conduct and statements made in the course of their official duties (**ADM 2006-31**).

To view these proposed rules, comments, and other materials, please go to <http://www.courts.michigan.gov/supremecourt/Resources/Administrative/index.htm#proposed>. The public hearing schedule is available at <http://www.courts.michigan.gov/supremecourt/Resources/Administrative/PH.htm>.

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